IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

WP(C).No. 2291 of 2007(W)

PETITIONERS:
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1. A.A. ALI, S/O. ABDUL KHADER,
ANDETH HOUSE, MEKKALADY, KALADY P.O.

2. A.A. PAREED, S/O. ABDUL KHADER,
ANDETH HOUSE, MEKKALADY, KALADY P.O.

BY ADV. SRI.M.M.ABDUL AZIZ (SR.)
SRI.M.A.ABDUL HAKHIM
SRI.JYOTHISH.J.KALLINGAL

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE,
KALADY POLICE STATION, ERNAKULAM DISTRICT.

2. THE CIRCLE INSPECTOR OF POLICE,
CHENGAMMANAD POLICE STATION, ERNAKULAM DISTRICT.

3. SIBY, S/O. JOSE,
NARAKATHADATHIL HOUSE, ILLITHODE, MALYATTOOR,
ERNAKULAM DISTRICT.

4. MATHACHAN, S/O. AUGUSTINE,
MOLOTHU HOUSE, ILLITHODE, MALYATTOOR,
ERNAKULAM DISTRICT.

5. PETER, S/O. PAPPACHAN,
PARAPPURAM HOUSE, ILLITHODE, MALYATTOOR,
ERNAKULAM DISTRICT.

6. THE DISTRICT COLLECTOR, ERNAKULAM.

7. THE REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA.

8. THE GEOLOGIST,
DISTRICT OFFICE OF THE DEPARTMENT OF MINING AND GEOLOGY, CIVIL STATION, ERNAKULAM.

9. MALAYATTOOR-NEELESWARAM GRAMA PANCHAYAT,
MALAYATTOOR REPRESENTED BY ITS SECRETARY.

10. KERALA STATE POLLUTION CONTROL BOARD,
GANDHI NAGAR, ERNAKULAM REPRESENTED BY ITS SENIOR ENVIRONMENTAL ENGINEER.

ADDL.11TH RESPONDENT:

11.ILLITHODE-MULAMKUZHI GRAMA SAMRAKSHANA SAMITHI,
MALAYATTOOR, REP. BY ITS SECRETARY.

ADDL.11TH RESPONDENT IS IMPLEADED AS PER ORDER DATED 6.2.2007 IN I.A.NO.1901/2007.

BY ADV. SRI.RAJESH VIJAYAN FOR ADDL.R11
SRI.H.BADARUDDIN
SRI.C.A.JOSEPH
GOVT.PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C).2291/2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REPORT SUBMITTED BY THE DEPARTMENT OF MINING AND GEOLOGY TO THE DISTRICT COLLECTOR, ERNAKULAM.

EXT.P2: COPY OF THE ORDER ISSUED BY THE DISTRICT COLLECTOR, ERNAKULAM.

EXT.P3: COPY OF THE JUDGMENT OF THIS HON'BLE COURT IN W.P.(C). NO.10063/2006.

EXT.P4: COPY OF THE PANCHAYAT LICENSE.

EXT.P5: COPY OF THE EXPLOSIVE LICENSE ISSUED BY THE DEPARTMENT OF EXPLOSIVES, GOVT. OF INDIA.

EXT.P6: COPY OF THE QUARRYING PERMIT ISSUED BY THE DEPARTMENT OF MINING AND GEOLOGY, GOVT. OF KERALA.

EXT.P7: COPY OF THE CONSENT FROM THE POLLUTION CONTROL BOARD.

EXT.P8: COPY OF THE PETITION SUBMITTED TO THE 1ST RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE MASS PETITION PREFERRED BY THE LOCAL RESIDENTS BEFORE THE REVENUE DIVISIONAL OFFICER, FORT KOCHI.

EXT.R3(B): COPY OF THE COMPLAINT PREFERRED BY ILLITHODE MULLAMKUZHY GRAMA SAMRAKSHANA SAMITHI BEFORE THE DIRECTOR, DEPARTMENT OF MINING AND GEOLOGY, THIRUVANANTHAPURAM.

EXT.R11(A): COPY OF THE LIE AND NATURE OF THE QUARRY OF THE PETITIONER.

EXT.R11(B): COPY OF THE LIE AND NATURE OF THE QUARRY OF THE PETITIONER.

/TRUE COPY/

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.2291 OF 2007 (W)

Dated this the 6th day of February, 2007

J U D G M E N T

KOSHY,J.

This is a petition for police protection. According to the petitioner, petitioner has got all the required licence including licence from the Panchayat, Geologist and consent from the Pollution Control Board. The contention of the contesting respondents is that quarrying is done beyond the licensed premises. In the above circumstances, police is directed to grant protection, provided, quarrying is done only from seven ares of property specifically mentioned in Ext.P6 and all the conditions of the licence and consent are carried out. However, police should see that quarrying is not conducted beyond seven ares of property and if explosives are used that should be licensed and it should be done strictly according to the conditions imposed by the Director of explosives. If the petitioner applies for further licence, it is for the licencing

authority to consider the same after considering the contentions of the neighbouring parties and that should be decided untrammeled by any of the observations herein. However, if the respondents have got any further grievances, it is for them to approach the statutory authorities. With the above observations this writ petition is disposed of.

J.B.KOSHY, JUDGE

T.R.RAMACHANDRAN NAIR, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

O.P.NO. OF 2006 ()

J U D G M E N T

1th January, 2007